

United States Bankruptcy Court
District of Minnesota

In re: **Calvin Mathew Cole**
Sharon Patricia Cole

Debtor

Case No.: **11-31190**

Chapter: **7**

Address: **702 N 5th Avenue**
Princeton, MN 55371

Employer's Tax Identification (EIN) No(s):

Last four digits of Social Security No(s): **xxx-xx-3549 & xxx-xx-3275**

NOTICE OF HEARING AND MOTION

TO: The debtor(s) and other entities specified in Local Rule 9013-3.

1. Please take notice that debtors move the court for the relief requested below and give notice of hearing.

2. The court will hold a hearing on this motion at 10:30 a.m. on May 19th, 2011, in Courtroom No. 2B, at the United States Courthouse, at 316 Robert St N, in Saint Paul, Minnesota.

3. Any response to this motion must be filed and served not later than May 13th, 2011, which is five days before the time set for the hearing (including Saturdays, Sundays, and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this chapter 7 case was filed on February 25, 2011. The case is now pending in this court.

5. This motion arises under 11 U.S.C. § 522(f) and Fed. R. Bankr. P. 9013. This motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9013-1 and 9013-2. Movant requests the following relief:

Motion to Avoid Judicial Lien on Real Estate

Wherefore, debtors move the court for an order that avoiding the judicial lien as described in the attached motion, and such other relief as may be just and equitable.

Date **April 22, 2011**

Signature **/s/ A. Michael Kuehn**
Name **A. Michael Kuehn 0386837**
Address **The Kuehn Law Firm**
701 Fourth Avenue South
Suite 500
Minneapolis, MN 55415

United States Bankruptcy Court
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Employer's Tax Identification (EIN) No(s):

Last four digits of Social Security No(s): **xxx-xx-3549 & xxx-xx-3275**

VERIFICATION

I, A. Michael Kuehn, attorney of record for the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on 4/22/11

Signed: /s/ A. Michael Kuehn
Name **A. Michael Kuehn 0386837**
Address **The Kuehn Law Firm**
701 Fourth Avenue South
Suite 500
Minneapolis, MN 55415

United States Bankruptcy Court
District of Minnesota

In re **Calvin Mathew Cole**
Sharon Patricia Cole

Debtor(s)

Case No. **11-31190**
Chapter **7**

Motion to Avoid Judicial Lien on Real Estate

1. Debtors, **Calvin Mathew Cole and Sharon Patricia Cole**, commenced this case on **2/25/11** by filing a voluntary petition for relief under Chapter 13 of Title 11 of the United States Bankruptcy Code.

2. This court has jurisdiction over this motion, filed pursuant to 11 U.S.C. Sec. 522(f) to avoid and cancel a judicial lien held by **Dyanne Lerew** on real property used as the debtor's residence, under 28 U.S.C. Sec. 1334.

3. On **January 24, 2011**, creditors recorded a judicial lien against the following debtor's residence at:

702 N 5th Avenue
Princeton, MN 55371

The said judicial lien is entered of record as follows:

Judgement - docketed January 24, 2011 as Case No. 48-CV-11-141 in favor of Dyanne E. Lerew vs. Calvin M. Cole and Sharon P. Cole in the original principal amount of \$71,761.64.

4. The debtor's interest in the property referred to in the preceding paragraph and encumbered by the lien has been claimed as fully exempt in their bankruptcy case.

5. The existence of **Dyanne Lerew** lien on debtor's real property impairs exemptions to which the debtor(s) would be entitled under 11 U.S.C. Sec. 522(b).

WHEREFORE, debtor(s) pray for an order against **Dyanne Lerew** avoiding and canceling the judicial lien in the above-mentioned property, and for such additional or alternative relief as may be just and proper.

Date **April 22, 2011**

Signature **/s/ Calvin Mathew Cole**
Calvin Mathew Cole
Debtor

Date **April 22, 2011**

Signature **/s/ Sharon Patricia Cole**
Sharon Patricia Cole
Joint Debtor

Order to Avoid Judicial Lien on Real Estate

The motion of the above-named debtors, **Calvin Mathew Cole and Sharon Patricia Cole**, to avoid lien of the respondent, **Dyanne Lerew** is sustained.

It is hereby ORDERED and DECREED that the judicial lien held by **Dyanne Lerew**, in and on debtor's residential real estate at **702 N 5th Avenue, Princeton, MN 55371** entered of record **Judgement - docketed January 24, 2011 as Case No. 48-CV-11-141 in favor of Dyanne E. Lerew vs. Calvin M. Cole and Sharon P. Cole in the original principal amount of \$71,761.64** be hereby canceled.

It is further ORDERED that unless debtor's bankruptcy case is dismissed, **Dyanne Lerew** shall take all steps necessary and appropriate to release the judicial lien and remove it from the local judgement index.

Date _____

U.S. BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Cole, Calvin Matthew
Cole, Sharon Patricia

Debtor(s).

Case No. BKY 11-31190-DDO

Chapter 7 Case

I, David M. Lanham, declare under penalty of perjury that on 04/22/11 I mailed copies of the foregoing Notice of Motion and Motion to Avoid Judicial Lien on Real Estate by first class mail postage prepaid to each entity named below at the address stated for each entity:

Ms. Dyanne Lerew
PO Box 352
Little Falls, MN 56345

Michael Williams
103 Rum River Drive South
Princeton, MN 55371

Date: April 22, 2011

By: David M. Lanham

Subscribed and sworn to before

me this 22nd day of April, 2011.

Jennifer L. Lanham
Notary Public

